

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION

SAMUEL DAVIS, )  
Plaintiff, )  
v. )  
FRANKLIN AMERICAN MORTGAGE )  
COMPANY and J.P. MORGAN CHASE,)  
N.A., )  
Defendants. )

No. 3:16-cv-02819  
Chief Judge Crenshaw

## **ORDER**

After the Magistrate Judge entered a Report and Recommendation (“R & R”) (Doc. No. 35) on July 26, 2017, recommending that this case be dismissed and providing the parties fourteen days within which to file any objections, no objections were filed. Instead, on August 9, 2017, Plaintiff sent a letter to the Court titled “Request for Continuance and Answer” (Doc. No. 36), in which he claimed that he had suffered a stroke and requested that he be allowed three weeks within which to respond to the R & R.

Eight weeks have passed since the Court received Plaintiff's letter, and no objections have been filed. Nor were any objections filed after Defendants filed a Motion to Ascertain Status (Doc. No. 37) on September 9, 2017. Thus, the R & R stands unchallenged.

Having conducted the *de novo* review required by Rule 72(b) of the Federal Rules of Civil Procedure, the Court agrees with the conclusions in the R & R that (1) Plaintiff does not allege a colorable claim of fraud against Franklin American Mortgage Company, making its joinder improper; (2) there is diversity of jurisdiction between Plaintiff and Morgan Chase, N.A., making

removal proper, and (3) Plaintiff's claims against Morgan Chase, N.A. are barred by the doctrine of *res judicata*.

Accordingly, the Court rules as follows:

- (1) The R & R (Doc. No. 35) is **ADOPTED**;
- (2) Plaintiff's "Motion to Rescind Notice and Order of Removal" (Doc. No. 22) is **DENIED**;
- (3) Morgan Chase N.A.'s "Motion to Dismiss for Failure to State a Claim" (Docket No. 4) is **GRANTED** and this case is hereby **DISMISSED WITH PREJUDICE**; and
- (4) All remaining Motions (Doc. Nos. 14, 31, 36 & 37) are **DENIED AS MOOT**.

The Clerk of the Court shall enter final judgment in accordance with Rule 58 of the Federal Rules of Civil Procedure.

IT IS SO ORDERED.

  
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WAVERLY D. CRENshaw, JR.  
CHIEF UNITED STATES DISTRICT JUDGE